

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 22, 2011

**SENATE BILL**

**No. 906**

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**Introduced by Senator DeSaulnier**

February 18, 2011

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An act to add Section 676 to the Penal Code, relating to criminal defendants.

LEGISLATIVE COUNSEL'S DIGEST

SB 906, as amended, DeSaulnier. Defendants: incarceration.

Existing law, in part, provides that all persons concerned in the commission of a crime, whether they directly commit the act constituting the offense, or aid and abet in its commission, or, not being present, have advised and encouraged its commission, or who, by threats, menaces, command, or coercion, compel another to commit any crime, are principals in any crime so committed. Existing law provides that a criminal conspiracy requires an agreement and some criminal act, besides the agreement, be done within this state to effect the object of the conspiracy, by one or more of the parties to the agreement, in order to constitute a conspiracy.

~~This bill would prohibit persons who are principals or coconspirators in the commission of a violent felony, as specified, from being incarcerated in close proximity to each other prior to trial, or processed in a reception center at the same time, as specified. The bill would also require the Department of Corrections and Rehabilitation to incarcerate those persons in separate state prisons or other separate facilities under the jurisdiction of the Department of Corrections and Rehabilitation.~~

~~By imposing additional burdens on local law enforcement agencies, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~This bill would prohibit the agency or department having custody of 2 defendants, when notified by a prosecuting attorney or court that the 2 defendants are either codefendants or coconspirators in the commission of a violent felony, from housing those inmates within sight or sound of each other and require, to the extent possible, those inmates be housed in separate facilities.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would declare that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 676 is added to the Penal Code, to read:  
2     676. ~~(a) No person who is incarcerated pending trial who is~~  
3     ~~alleged to be a principal or coconspirator in the commission of a~~  
4     ~~violent felony as defined in subdivision (e) of Section 667.5 may~~  
5     ~~be held in close proximity to any other person who is incarcerated~~  
6     ~~pending trial and who is alleged to be or is convicted as a principal~~  
7     ~~or coconspirator in the commission of that offense, except as may~~  
8     ~~be necessary to meet with legal counsel.~~  
9     ~~(b) The Department of Corrections and Rehabilitation shall~~  
10    ~~process persons who are convicted as principals or coconspirators~~  
11    ~~in the commission of a violent felony as described in subdivision~~  
12    ~~(e) of Section 667.5 in separate reception centers or at different~~  
13    ~~times in the same reception center to ensure that those persons are~~  
14    ~~not together or in close proximity to each other at the reception~~  
15    ~~center.~~

1 ~~(e) The Department of Corrections and Rehabilitation shall~~  
2 ~~incarcerate persons who are convicted as principals or~~  
3 ~~coconspirators in the commission of a violent felony as described~~  
4 ~~in subdivision (c) of Section 667.5 in separate prisons or in other~~  
5 ~~separate facilities under the jurisdiction of the department.~~

6 ~~SEC. 2. If the Commission on State Mandates determines that~~  
7 ~~this act contains costs mandated by the state, reimbursement to~~  
8 ~~local agencies and school districts for those costs shall be made~~  
9 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
10 ~~4 of Title 2 of the Government Code.~~

11 *676. When notified by a prosecuting attorney or court that two*  
12 *defendants are either codefendants or coconspirators in the*  
13 *commission of a violent felony as described in subdivision (c) of*  
14 *Section 667.5, the agency or department having custody of the*  
15 *defendants shall not house those inmates within sight or sound of*  
16 *each other and, to the extent possible, those inmates shall be*  
17 *housed in separate facilities.*

18 *SEC. 2. No reimbursement is required by this act pursuant to*  
19 *Section 6 of Article XIII B of the California Constitution because*  
20 *the only costs that may be incurred by a local agency or school*  
21 *district will be incurred because this act creates a new crime or*  
22 *infraction, eliminates a crime or infraction, or changes the penalty*  
23 *for a crime or infraction, within the meaning of Section 17556 of*  
24 *the Government Code, or changes the definition of a crime within*  
25 *the meaning of Section 6 of Article XIII B of the California*  
26 *Constitution.*